

### § 381.121e

been tested for accuracy in accordance with the requirements of NIST Handbook 44.

[55 FR 49836, Nov. 30, 1990, as amended at 62 FR 45026, Aug. 25, 1997; 65 FR 34390, May 30, 2000; 66 FR 52486, Oct. 16, 2001]

### § 381.121e Handling of failed product.

Any lot of product which is found to be out of compliance with net weight requirements upon testing in accordance with § 381.121b of this subchapter shall be handled as follows:

(a) A lot tested in an official establishment and found not to comply with net weight requirements may be reprocessed and must be reweighed and remarked to satisfy the net weight requirements of this section, and be re-inspected in accordance with the requirements of this part.

(b) A lot tested outside of an official establishment and found not to comply with net weight requirements must be reweighed and remarked with a proper net weight statement, provided that such reweighing and remarking shall not deface, cover, or destroy any other marking or labeling required under this subchapter and the net quantity of contents is shown with the same prominence as the most conspicuous feature of a label.

[55 FR 49836, Nov. 30, 1990]

### § 381.122 Identification of manufacturer, packer or distributor.

The name and address, including zip code, of the manufacturer, packer, or distributor shall be shown on the label and if only the name and address of the distributor is shown, it shall be qualified by such term as "packed for," "distributed by," or "distributors." The name and place of business of the manufacturer, packer, or distributor may be shown on the principal display panel, on the 20-percent panel of the principal display panel reserved for required information, on the front riser panel of frozen food cartons, or on the information panel.

[37 FR 9706, May 16, 1972, as amended at 59 FR 40215, Aug. 8, 1994]

### 9 CFR Ch. III (1–1–08 Edition)

### § 381.123 Official inspection mark; official establishment number.

The immediate container of every inspected and passed poultry product shall bear:

(a) The official inspection legend; and

(b) The official establishment number of the official establishment in which the product was processed under inspection and placed as follows:

(1) Within the official inspection legend in the form required by subpart M of this part; or

(2) Outside the official inspection legend elsewhere on the exterior of the container or its labeling, e.g., the lid of a can, if shown in a prominent and legible manner in a size sufficient to insure easy visibility and recognition and accompanied by the prefix "P"; or

(3) Off the exterior of the container, e.g., on a metal clip used to close casings or bags, or on the back of a paper label of a canned product, or on other packaging or labeling in the container, e.g., on aluminum pans and trays placed within containers, when a statement of its location is printed contiguous to the official inspection legend, such as "Plant No. on Package Closure" or "Plant No. on Pan", if shown in a prominent and legible manner in a size sufficient to ensure easy visibility and recognition; or

(4) On an insert label placed under a transparent covering if clearly visible and legible and accompanied by the prefix "P".

[47 FR 29515, July 7, 1982]

### § 381.124 Dietary food claims.

If a product purports to be or is represented for any special dietary use by man, its label shall bear a statement concerning its vitamin, mineral, and other dietary properties upon which the claim for such use is based in whole or in part and shall be in conformity with regulations (21 CFR part 125) established pursuant to sections 403 and 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343, 371).

### § 381.125 Special handling label requirements.

(a) Packaged products which require special handling to maintain their

wholesome condition shall have prominently displayed on the principal display panel of the label the statement: "Keep Refrigerated," "Keep Frozen," "Keep Refrigerated or Frozen," "Perishable—Keep Under Refrigeration," or such similar statement as the Administrator may approve in specific cases. The immediate containers for products that are frozen during distribution and intended to be thawed prior to or during display for sale shall bear the statement "Shipped/Stored and Handled Frozen for Your Protection, Keep Refrigerated or Freeze." For all canned perishable products, the statement shall be shown in upper case letters one-fourth inch in height for containers having a net weight of 3 pounds or less, and for containers having a net weight over 3 pounds, the statement shall be shown in letters one-half inch in height.

(b) Safe handling instructions shall be provided for all poultry products not processed in accordance with the provisions of § 381.150(a) or that have not undergone other processing that would render them ready-to-eat, except as exempted under paragraph (b)(4) of this section.

(1) (i) Safe handling instructions shall accompany the poultry products, specified in this paragraph (b), destined for household consumers, hotels, restaurants, or similar institutions and shall appear on the label. The information shall be in lettering no smaller than one-sixteenth of an inch in size and shall be prominently placed with such conspicuousness (as compared with other words, statements, designs or devices in the labeling) as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(ii) The safe handling information shall be presented on the label under the heading "Safe Handling Instructions" which shall be set in type size larger than the print size of the rationale statement and handling statements as discussed in paragraphs (b)(2) and (b)(3) of this section. The safe handling information shall be set off by a border and shall be one color type printed on a single color contrasting background whenever practical.

(2) (i) The labels of the poultry products, specified in this paragraph (b) and prepared from inspected and passed poultry, shall include the following rationale statement as part of the safe handling instructions, "This product was prepared from inspected and passed meat and/or poultry. Some food products may contain bacteria that could cause illness if the product is mishandled or cooked improperly. For your protection, follow these safe handling instructions." This statement shall be placed immediately after the heading and before the safe handling statements.

(ii) The labels of the poultry products, specified in this paragraph (b) and prepared pursuant to § 381.10(a) (2), (5), (6), and (7), shall include the following rationale statement as part of the safe handling instructions, "Some food products may contain bacteria that could cause illness if the product is mishandled or cooked improperly. For your protection, follow these safe handling instructions." This statement shall be placed immediately after the heading and before the safe handling statements.

(3) Poultry products, specified in this paragraph (b), shall bear the labeling statements.

(i) Keep refrigerated or frozen. Thaw in refrigerator or microwave. (Any portion of this statement that is in conflict with the product's specific handling instructions may be omitted, e.g., instructions to cook without thawing.) (A graphic illustration of a refrigerator shall be displayed next to the statement.);

(ii) Keep raw meat and poultry separate from other foods. Wash working surfaces (including cutting boards), utensils, and hands after touching raw meat or poultry. (A graphic illustration of soapy hands under a faucet shall be displayed next to the statement.);

(iii) Cook thoroughly. (A graphic illustration of a skillet shall be displayed next to the statement.); and

(iv) Keep hot foods hot. Refrigerate leftovers immediately or discard. (A graphic illustration of a thermometer shall be displayed next to the statement.)

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(4) Poultry products intended for further processing at another official establishment are exempt from the requirements prescribed in paragraphs (b)(1) through (b)(3) of this section.

[37 FR 9706, May 16, 1972, as amended at 39 FR 4569, Feb. 5, 1974; 59 FR 14540, Mar. 28, 1994; 64 FR 746, Jan. 6, 1999]

### § 381.126 Date of packing and date of processing; contents of cans.

(a) Either the immediate container or the shipping container of all poultry food products shall be plainly and permanently marked by code or otherwise with the date of packing. If calendar dating is used, it must be accompanied by an explanatory statement, as provided in § 381.129(c)(2).

(b) The immediate container for dressed poultry shall be marked with a lot number which shall be the number of the day of the year on which the poultry was slaughtered or a coded number.

(c) All canned products shall be plainly and permanently marked, by code or otherwise, on the containers, with the identity of the contents and date of canning, except that canned products packed in glass containers are not required to be marked with the date of canning if such information appears on the shipping container. If calendar dating is used, it must be accompanied by an explanatory statement, as provided in § 381.129(c)(2).

(d) If any marking is by code, the inspector in charge shall be informed as to its meaning.

[37 FR 9706, May 16, 1972, as amended at 39 FR 28516, Aug. 8, 1974; 39 FR 35784, Oct. 4, 1974]

### § 381.127 Wording on labels of shipping containers.

(a) Each label for use on a shipping container for inspected and passed poultry products shall bear, in distinctly legible form, the following information:

(1) The official inspection legend.

(2) The official establishment number of the official establishment in which the poultry product was inspected, either within the official inspection mark, or elsewhere on the container clearly visible and in proximity to the official inspection mark.

### § 381.128 Labels in foreign languages.

Any label to be affixed to a container of any dressed poultry or other poultry product for foreign commerce may be printed in a foreign language. However, the official inspection legend and establishment number shall appear on the label in English, but in addition, may be literally translated into such foreign language. Each such label shall be subject to the applicable provisions of §§ 381.115 to 381.141, inclusive. Deviations from the form of labeling required under the regulations may be approved by the Administrator in specific cases and such modified labeling may be used for poultry products to be exported: *Provided*, (a) That the proposed labeling accords to the specifications of the foreign purchaser, (b) that it is not in conflict with the Act or the laws of the country to which it is intended for export, and (c) that the outside of the shipping container is labeled to show that it is intended for export; but if such product is sold or offered for sale in domestic commerce, all the requirements of the regulations shall apply.

### § 381.129 False or misleading labeling or containers.

(a) No poultry product subject to the Act shall have any false or misleading labeling or any container that is so made, formed, or filled as to be misleading. However, established trade names and other labeling and containers which are not false or misleading and which are approved by the Administrator in the regulations or in specific cases are permitted.

(b) No statement, word, picture, design, or device which is false or misleading in any particular or conveys any false impression or gives any false indication of origin, identity, or quality, shall appear on any label. For example:

(1) Official grade designations such as the letter grades A, B, and C may be used in labeling individual carcasses of poultry or containers of poultry products only if such articles have been graded by a licensed grader of the Federal or Federal-State poultry grading service and found to qualify for the indicated grade.